

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

CLEAR WITH COMPUTERS, LLC
F/K/A ORION IP, LLC

v.

MERCEDES BENZ USA, LLC

No. 6:07-cv-451 LED

JURY

FINAL JUDGMENT PURSUANT TO RULE 54(B)

The Court, upon the Stipulation of the parties to this action, and upon finding that there is no just reason for delay in the entry of this judgment, hereby Orders as follows:

(1) On May 30, 2008, this Court granted (Dkt. No. 50) Defendant Mercedes-Benz USA, LLC's Motion for Judgment on the Pleadings or in the Alternative Motion for Summary Judgment (Docket No. 21) and denying Plaintiff Clear with Computers, LLC, f/k/a Orion IP, LLC's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment Regarding Release and License Affirmative Defenses and Breach of Contract Counterclaims (Docket No. 24);

(2) In granting Defendant's Motion for Judgment on the Pleadings or in the Alternative Motion for Summary Judgment (Dkt. No. 21), this Court dismissed Plaintiff's claims for patent infringement (Docket No. 50) and invited Defendant to replead its counterclaim for breach of contract, which Defendants did on June 5, 2008 (Docket No. 51);

(3) By stipulation, Plaintiff and Defendant have agreed that in light of the May 30 Order, Defendant is entitled to judgment in its favor on its Counterclaim for Breach of Contract (Docket No. 51) and entitled to damages of \$76,500 representing attorneys' fees already incurred as well as the fees and costs resulting from any appeal that is taken should Defendant prevail on such appeal, **IT IS THEREFORE ORDERED AND ADJUDGED** that Plaintiff breached the Patent License and Settlement Agreement between the parties by instigating the now dismissed lawsuit for patent infringement and Judgment is therefore entered in favor of the Defendant in the amount of \$76,500.;

(4) To provide the means for Defendant to secure payment of this Judgment, Plaintiff shall, within 10 days of the entry of this Judgment, deposit the sum of \$76,500 in an interest-bearing escrow account at Bank of America, which shall serve as the escrow

agent for such sums, upon which deposit execution on this judgment shall be stayed pending appeal;

(5) In the event Defendant prevails on appeal and wishes to include the fees and expenses incurred in the defense of any appeal in the judgment to which it would be entitled, Defendant shall move this Court for the inclusion of those fees and expenses within 30 days of the remand of the appeal to this Court by the United States Court of Appeals for the Federal Circuit, the United States Court of Appeals for the Fifth Circuit, or the United States Supreme Court finally disposing of any appeal or appeals raised by Plaintiff from the May 30, 2008 Order.

(6) That, with respect to Plaintiff, upon entry of the judgment in the United States Court of Appeals for the Federal Circuit, the United States Court of Appeals for the Fifth Circuit, or United States Supreme Court disposing of (whether by remanding, reversing, upholding or otherwise) any appeal or appeals raised by Plaintiff from the May 30, 2008 Order, the parties shall submit a proposed order to the Court, in the form attached hereto as Exhibit B, to implement the final appellate court order(s) by instructing the escrow agent to pay the sum, including all accrued interest, shall be released to the appropriate party or parties consistent with the judgment or judgments on appeal within five (5) business days of presentment of this Court's order, and the interest accrued in the escrow account shall be deemed equivalent to the interest otherwise payable as post-judgment interest under applicable law;

(7) Clear with Computers, LLC shall be responsible for any expenses associated with maintaining the escrow accounts described in paragraphs (4), (5), and (6) above.

(8) The Court expressly determines that there is no just reason for delay in the entry of this partial final judgment and therefore directs entry pursuant to the provisions of Rule 54(b) of the Federal Rules of Civil Procedure.

So ORDERED and SIGNED this 22nd day of July, 2008.

A handwritten signature in black ink, appearing to read "LEONARD DAVIS", is written over a horizontal line. The signature is fluid and cursive, with a large, stylized "L" on the left and a "D" on the right.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**